

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND

3 SAGENT TECHNOLOGY, INC * CIVIL ACTION JFM-02-2505
4 Plaintiff

5 vs. * Baltimore, Maryland

6 MICROS SYSTEMS, INC. * January 22, 2003
7 Defendant * * * *

8 Deposition of SCOTT CALLNIN, a witness of
9 lawful age, taken on behalf of the Plaintiff in the
10 above-entitled cause, pending in the District Court of
11 the United States for the District of Maryland, before
12 Dawn L. Venker, a Notary Public in and for Baltimore
13 County, Maryland, at 7031 Columbia Gateway Drive,
14 Columbia, Maryland 21046, on the 22nd day of January,
15 2003.

16 APPEARANCES:

17 SCOTT H. PHILLIPS, Esquire
18 For the Plaintiff

19 MICHAEL H. TOW, Esquire
For the Defendant

20 ALSO PRESENT: PETER ROGERS, JR.

21 Reported By: Dawn L. Venker

EXHIBIT

<p style="text-align: right;">22</p> <p>1 quarter.</p> <p>2 Q In what time frame did these initial talks</p> <p>3 with Mr. Comstock or Mr. VanVeelen take place with you?</p> <p>4 A This would have been late May or early</p> <p>5 June.</p> <p>6 Q Of 2000?</p> <p>7 A That's right.</p> <p>8 Q And at some point did you serve as a</p> <p>9 liaison between Mr. Rogers who was executive designated</p> <p>10 on behalf of MICROS and the individuals at Sagent with</p> <p>11 regard to this purchase?</p> <p>12 A Only to the extent I just described, to put</p> <p>13 the two together and then afterwards to follow up on</p> <p>14 some of the correspondence between the companies.</p> <p>15 Q Did you have any role in the negotiation,</p> <p>16 for lack of a better word, between the two companies</p> <p>17 with regard to this purchase?</p> <p>18 A I sat in on a meeting in which the idea was</p> <p>19 first discussed, and my input was asked for in terms of</p> <p>20 what kind of future prospects there might be. The</p> <p>21 ability to sell the product and some sort of a forecast</p>	<p style="text-align: right;">24</p> <p>1 Q Where was that meeting held?</p> <p>2 A Here at MICROS.</p> <p>3 Q What time frame?</p> <p>4 A Early June. I believe perhaps the 6th.</p> <p>5 Q Did you take any notes at that meeting?</p> <p>6 A I did not.</p> <p>7 Q And describe for me again -- you indicated</p> <p>8 earlier that someone had asked your input about, among</p> <p>9 other things, the ability of MICROS to resell the</p> <p>10 license; is that correct?</p> <p>11 A That's right.</p> <p>12 Q Were there any other areas of input that</p> <p>13 you were asked to provide at the meeting?</p> <p>14 A No. Basically just future prospects. The</p> <p>15 nature of that meeting was a lot of relationship talk.</p> <p>16 We really hadn't hashed out any real specifics other</p> <p>17 than to get the idea of what might be coming our way.</p> <p>18 Both MICROS and Sagent partners going into this project</p> <p>19 in the future.</p> <p>20 Q Do you recall any questions or comments</p> <p>21 made by Mr. Rogers at the meeting?</p>
<p style="text-align: right;">23</p> <p>1 roughly that we might expect. But not -- I was not</p> <p>2 involved at all in the negotiations as far as the</p> <p>3 outcome of the final decision which resulted in the</p> <p>4 paperwork that is here in front of us.</p> <p>5 Q So was the meeting between MICROS personnel</p> <p>6 only, or were there Sagent personnel included in that</p> <p>7 meeting?</p> <p>8 A There were Sagent personnel.</p> <p>9 Q Can you give me an idea of who was at the</p> <p>10 meeting?</p> <p>11 A That would have been --</p> <p>12 Q Yourself obviously?</p> <p>13 A -- myself, Peter Rogers, Dan VanVeelen,</p> <p>14 Gene --</p> <p>15 Q Garrett?</p> <p>16 A -- Garrett -- that's correct -- and a</p> <p>17 Vince. I can't recall his last name.</p> <p>18 Q DeGennarow?</p> <p>19 A I think that's roughly right.</p> <p>20 Q Anyone else that you can recall?</p> <p>21 A I don't recall anybody else in the meeting.</p>	<p style="text-align: right;">25</p> <p>1 A Rough recollection of various pieces of the</p> <p>2 conversation. Some of it merely on a personal level.</p> <p>3 Relationship type things. A lot of talk about Gene and</p> <p>4 Peter being on track teams for their respective</p> <p>5 schools, and then Peter was involved with kind of</p> <p>6 bringing out the questions about what we would have in</p> <p>7 the way of future projects and what we might expect and</p> <p>8 what might be reasonable as far as our possible</p> <p>9 transactions at that time given the financial shape</p> <p>10 that we were in as well.</p> <p>11 So there was talk about just getting closer</p> <p>12 to the right number with Sagent maybe talking dozens or</p> <p>13 a hundred licenses, and Peter saying it certainly</p> <p>14 wouldn't be that. So the talk moved towards lower</p> <p>15 numbers. May be perhaps ten or a few licenses, but</p> <p>16 again no promises at that point.</p> <p>17 Q You mentioned MICROS' financial condition</p> <p>18 at that point. Describe for me generally what the</p> <p>19 financial condition of the company was at that time?</p> <p>20 A Certainly not as strong as it had been a</p> <p>21 couple years prior. At that point, we had followed the</p>

7 (Pages 22 to 25)

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1 rest of the technology and hospitality companies into
 2 downward trends. Certainly not as deep as most
 3 companies were feeling it, but in the way of some of
 4 the financial positions, cash available, and that sort
 5 of thing, I don't know what the standing was at that
 6 time.

7 Q Was there any discussion about concessions
 8 that Sagent might be able to make to make this
 9 transaction more attractive to MICROS?

10 A There would definitely be fairly deep
 11 discounting involved off of their regular retail
 12 pricing.

13 Q Anything else along those lines?

14 A That Sagent would assist us in selling had
 15 been the understanding of the relationship going back
 16 for a number of years. That we were 50-50 partners on
 17 this project, and that they put in their equal time on
 18 helping us to sell to various clients as well.

19 Q You say that went back a number of years.
 20 Was that specifically discussed at this June 6th
 21 meeting?

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 1 we'll mark as Number 2, please.
 2 (Callnin Deposition Exhibit Number 2 was
 3 marked by the reporter.)

4 MR. PHILLIPS: For the record, Exhibit
 5 Number 2 reflects MICROS Bates Numbers 5 through 10.

6 Q If you would take a moment to look through
 7 that, if you would, sir, MICROS Bates number 5 through
 8 10.

9 Mr. Callnin, feel free to look at all of
 10 that. I can tell that most of my questions will be on
 11 page 9, but feel free to look at all of it.

12 MR. TOW: You should just look at all of it
 13 to understand what you are looking at.

14 Q Ready to proceed? As I said, let me ask
 15 you turn to page 9, which I think you have already
 16 done. Let me ask you to look at the bottom e-mail
 17 there. It's a February 8th, 2001 e-mail from you to
 18 Mr. VanVeelen. Do you see that one?

19 A Yes.

20 Q And I think -- correct me if I'm wrong --
 21 this reflects what we were talking about a little bit

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1 A Yes. Yes. The idea that Sagent would help
 2 to sell the product was discussed.

3 Q And tell me who was involved in that
 4 conversation and who said what?

5 A Primarily that would have been Dan
 6 VanVeelen, as he was the main contact as far as the
 7 product was concerned, and he would have the feel for
 8 what leads they'd have. And he would have an opinion
 9 as well that he did put into the conversation about
 10 future client activity. The numbers that we might
 11 expect to -- projects we might expect to go into as
 12 well.

13 Q Is it your contention that MICROS has paid
 14 to Sagent any portion of the \$136,000 reflected on both
 15 the purchase order as well as the price quote provided
 16 earlier to MICROS by Sagent?

17 MR. TOW: Objection as to form.

18 Q Did you understand the question?

19 A Yes. I understand, and I do not believe
 20 that any portion of this amount has been paid.

21 Q Let me hand you the next document which

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1 earlier with regard to deletion of the maintenance
 2 support aspect of the initial invoice as well as the
 3 reconfiguration of the mix of product. Is that your
 4 understanding?

5 A That's right.

6 Q And if you look at the e-mail above that,
 7 which is Mr. VanVeelen's reply to that of that same
 8 date, it appears that Sagent is amenable to those
 9 changes. Is that your understanding?

10 A Yes.

11 Q And those changes would in turn reduce the
 12 amount of the invoice from the initial 136,000 down to
 13 112,000. Is that your understanding?

14 A That's right.

15 Q Is it your contention that MICROS has paid
 16 to Sagent any portion of that 112,000?

17 A I do not believe any portion of that has
 18 been paid.

19 Q Let me ask you to take a look at -- it is
 20 in that same document. If you'd turn to page 6. If
 21 you look a little more than halfway down at the close

<p style="text-align: right;">30</p> <p>1 of that e-mail, you say, "Thanks, Dan. Scott Callnin," 2 and then there is your phone number. Do you see that? 3 A Yes. 4 Q If you look to the very paragraph right 5 above that, "And I will honestly push very hard on this 6 end." Do you see that? 7 A The one just above? 8 Q Correct. 9 A Yes. 10 Q That indicates that as of the date of that 11 e-mail, which is reflected on the previous page, of 12 October 15th, 2001, you were still trying to get Sagent 13 paid for the \$112,000 invoice. Is that your 14 understanding? 15 A Was trying to get the invoices changed and 16 for the outstanding accounting issues to be cleared up. 17 Q When you say the invoices changed, tell me 18 what you mean by that. 19 A Although we had had verbal agreement 20 probably sometime not too long after the initial 21 meeting in June 6th, 2000 about making the changes to</p>	<p style="text-align: right;">32</p> <p>1 Q A few minutes ago you said that in addition 2 to trying to get the invoices changed, you were trying 3 to get some accounting issues cleared up. I think that 4 was your phrase. What do you mean by that? 5 A We had several different fronts that had 6 their own separate accounting paperwork generated, and 7 they had been mixed in with one another. Invoices 8 improperly being assigned to one project versus 9 another. Sagent had I think two or three pretty large 10 turnovers in their finance department, and so at least 11 three different times over the year between our 12 meetings with this and about the winter of 2002 I had 13 to go through -- go through every invoice that was ever 14 generated, every payment that was listed from our 15 finance department in regard to the invoices, match 16 them up, and explain to Sagent where some of their 17 holes were in their paperwork and accounting. And then 18 get back to our finance department about what should be 19 or shouldn't be issued in the way of payments towards 20 those invoices. 21 Q When you said some of the holes in the</p>
<p style="text-align: right;">31</p> <p>1 the software mix, and then we didn't have a formal 2 writing of the objectives until February 8th, we did 3 not see -- even though there was on that same date 4 acceptance of the proposal, we did not see an invoice 5 for well over a year that reflected the types of 6 changes that we are talking about. 7 Q So you were looking to get from Sagent an 8 invoice which reflected the agreement that you all had 9 reached in terms of reconfiguring the product mix and 10 deleting the maintenance and support aspect? 11 A Correct. 12 Q And as of February 8th, 2001, MICROS had 13 not received such an amended invoice? 14 A We hadn't. 15 Q But you mentioned sometime about a year or 16 more than a year later you ultimately did. 17 A Yes, we did. 18 Q And do you recall when that was? 19 A I believe that was about November of 2001. 20 Would have been a few months after that, putting it in 21 the winter of 2002.</p>	<p style="text-align: right;">33</p> <p>1 Sagent invoicing or paperwork, am I correct in 2 understanding that those reflected projects that had 3 nothing to do with this particular transaction? 4 A That's correct. Although some of the 5 transactions or some of the invoices were mistakenly 6 assumed to be transactions from those other projects. 7 At one point, notably the \$24,000 that was an original 8 line item on the original purchase order in question 9 here -- 10 Q Exhibit Number 1? 11 A -- had been assumed -- yes. That's 12 right. -- had been assumed to be annual support for one 13 of our first clients. I indicate in this e-mail of 14 October 15th that it was an incorrect billing. 15 Q As of October 15th, 2001, was there any 16 other issue, apart from your need for a revised 17 invoice, that reflected the reconfigured product mix 18 and the deletion of the maintenance and support 19 component? Anything other than that that precluded 20 MICROS from paying that \$112,000 to Sagent? Were you 21 looking for anything else?</p>

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1 A We were looking for some clients to use
 2 those prepurchase licenses against. So, yes, during
 3 that course of time we were e-mailing back and forth
 4 about, you know, do we have any potential leads, what
 5 is the outlook for the next new client. So there was,
 6 yes, that -- if you call it an issue -- there was that
 7 issue intermixed with this as well.

8 Q Now, assuming as of February -- I'm
 9 sorry -- October 15, 2001 -- assuming as of that date
 10 Sagent had provided you with an amended invoice which
 11 correctly reflected the new amount and the new product
 12 configuration mix, would Sagent have paid that at that
 13 time? All other things being equal. All other things
 14 being the same as they were as of that date.

15 MR. TOW: Objection. You may have
 16 misspoken in terms of Sagent paying.

17 MR. PHILLIPS: I did. I apologize.

18 MR. TOW: I think it was something of a
 19 complex question.

20 Q You mentioned that there were a couple of
 21 things that were going on as of October 15th 2001, some

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1 turned it over to the appropriate persons to authorize
 2 paying of the invoice.

3 Q Who would that have been at the time?

4 A Either Peter Rogers or Peter Rogers in
 5 combination with our CFO to approve that.

6 Q Is there any e-mail or other writing from
 7 you to anybody at Sagent that indicated that one of the
 8 reasons Sagent wasn't being paid was because of
 9 Sagent's failure to cooperate with MICROS in the joint
 10 effort to identify customers to purchase these
 11 licenses?

12 A Could you restate the beginning part of
 13 that sentence.

14 Q I'm asking you if you can identify for me
 15 any e-mail or other writing that came from you that
 16 went to anyone at Sagent that expressed the notion that
 17 one of the reasons that Sagent wasn't being paid
 18 \$112,000 was because Sagent had failed to cooperate
 19 with MICROS in the joint effort to identify customers
 20 to purchase the license?

21 A I'm not aware of anything that I have,

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1 of which are reflected in your e-mail. One of them was
 2 that Sagent had never provided you all with an amended
 3 invoice, correct?

4 A Correct.

5 Q One of the other issues that was going on
 6 was that jointly the two companies were looking for
 7 customers to purchase these licenses, correct?

8 A That's right.

9 Q Now, let me ask you to assume as of October
 10 15th, 2001 Sagent had provided MICROS with an amended
 11 invoice which was correct? It correctly reflected the
 12 terms, but the other -- that other issue, the new
 13 customer issue, was the same as it was at that time,
 14 namely you all were jointly looking for other
 15 customers. Would MICROS have paid Sagent the \$112,000?

16 MR. TOW: Objection. Calls for
 17 speculation. You can answer as best you can.

18 A I would at that point say that I was
 19 satisfied saying that the invoicing was properly done,
 20 and then I would have given my blessing or my thumbs up
 21 that the product mix was correct. And then would have

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1 either with me or that I have seen, that listed any
 2 specific reason why the invoice was not -- was not paid
 3 after the issue of having the correct software listed
 4 on the invoice was resolved.

5 Q I mean even before that. You said that was
 6 sometime in -- when did you say that was when you got
 7 the -- finally got the new invoice?

8 A Late 2000 or early 2002.

9 Q Even before late 2001, did you find -- are
 10 you aware of any correspondence that would indicate
 11 that one of the reasons that Sagent wasn't being paid
 12 was because of its failure to cooperate with MICROS to
 13 identify customers to purchase the licenses?

14 A I'm not aware of any documents or notes
 15 that I may have on any such statement of that nature.

16 Q Did you ever express that sentiment to
 17 anyone at Sagent verbally, either in person or on the
 18 telephone?

19 A Yes. Certainly the idea that no leads had
 20 come through was discussed verbally quite a bit. We
 21 had -- we would express when we had a possible client

54 <p>1 Q Let me hand you what we are going to mark 2 as Exhibit Number 5 which bears MICROS Bates number 11 3 and 12.</p> <p>4 MR. PHILLIPS: And I will point out, 5 Michael, that my copy was poor. We can confirm that 6 this is actually another 1 that is the following 7 number.</p> <p>8 MR. TOW: That's fine.</p> <p>9 (Callnin Deposition Exhibit Number 5 was 10 marked by the reporter.)</p> <p>11 A Okay.</p> <p>12 Q Mr. Callnin, this purports to be an e-mail 13 that Tiffany Nguyen -- N-G-U-Y-E-N -- that Sagent sent 14 to you on October 18, 2001 in which she attaches a 15 "revised invoice for the initial sales," and again, let 16 me ask you if you recall receiving this e-mail and the 17 attachment?</p> <p>18 A This one, yes. I recall receiving this.</p> <p>19 Q Both pages?</p> <p>20 A Yes.</p> <p>21 Q An did you read it when you received it?</p>	56 <p>1 A That's the old headquarters of MICROS 2 Systems.</p> <p>3 Q And what is currently housed there?</p> <p>4 A Just the original office building, and I'm 5 not sure if we still have a receiving department there 6 or not. We may have completely vacated the area.</p> <p>7 Q What was there as of June 30th, 2000?</p> <p>8 A At that point, there was a receiving area 9 there.</p> <p>10 Q And is it your understanding that the 11 software and analytical calculator that Sagent shipped 12 to MICROS was actually delivered to that address as 13 opposed to this address?</p> <p>14 A That might be accurate. I'm not certain, 15 but that would be about right.</p> <p>16 Q Let me ask you. I think it might be 17 reflected on Exhibit Number 1. Does that refresh your 18 recollection in responding to that previous question?</p> <p>19 A Yes. It appears that they have that as 20 their ship to address. So it was likely the location 21 where their software arrived.</p>
55 <p>1 A Yes.</p> <p>2 Q Does the second page, which is page 12, is 3 that the corrected invoice that you were referring to 4 earlier that you said arrived sometime in late 2001?</p> <p>5 A Yes. There is the corrected invoice.</p> <p>6 Q Let me shift gears a little bit and ask you 7 about the answers to interrogatories that MICROS has 8 provided in this case. Did you have any role in 9 preparing those answers to interrogatories? Let me 10 first ask you whether you have ever seen them?</p> <p>11 A I've seen them within the last couple of 12 weeks.</p> <p>13 Q And that probably answers my next question. 14 Did you have any role in preparing them?</p> <p>15 A No.</p> <p>16 Q Were you asked to review them, once they 17 had been completed, for accuracy or completeness?</p> <p>18 A No.</p> <p>19 Q There is a reference in the answers to 20 interrogatories to an address at Beltsville, 12000 21 Baltimore Avenue. Can you tell me what is there?</p>	57 <p>1 Q And it's not your contention, is it, 2 Mr. Callnin, that Sagent failed to deliver either 3 that -- the software or analytical calculator that is 4 reflected and contemplated in Exhibit Number 1, is it?</p> <p>5 A No.</p> <p>6 Q Do you have an understanding of who would 7 have re -- who physically would have received the 8 software from Sagent at the Beltsville address as of 9 the June, July 2000 time frame?</p> <p>10 A I don't know.</p> <p>11 Q You mentioned a receiving department 12 earlier; is that correct?</p> <p>13 A Uh-huh.</p> <p>14 Q That was there at the time?</p> <p>15 A Yes.</p> <p>16 Q How many people worked in that department?</p> <p>17 A I don't know.</p> <p>18 Q Do you know who the head of it was back in 19 the June, July 2000 time frame?</p> <p>20 A No.</p> <p>21 Q Do you know the names of any of the people</p>

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<p style="text-align: right;">58</p> <p>1 who worked in the receiving department during that time 2 frame?</p> <p>3 A No.</p> <p>4 Q Did you ever personally see the software 5 that Sagent delivered to MICROS?</p> <p>6 A Yes.</p> <p>7 Q When did you see it?</p> <p>8 A I can't recall even very closely when it 9 did arrive. It was, as best I can recall, sometime in 10 the fall of 2000.</p> <p>11 Q And at that time was your office in 12 Beltsville?</p> <p>13 A I believe we moved -- two years ago, no. 14 Three years ago. Yes, I believe. No. I believe we 15 were here in this location. Fall of 2000 we were here 16 at this location.</p> <p>17 Q Were you physically here when you saw the 18 software for the first time?</p> <p>19 A Yes.</p> <p>20 Q Can you describe for me what it looked 21 like? Was it open? Was it in packaging?</p>	<p style="text-align: right;">60</p> <p>1 been multiple.</p> <p>2 Q I think you said that the disk, or disks 3 were shrink wrapped at that time, right?</p> <p>4 A Yes.</p> <p>5 Q And you took them out of not the shrink 6 wrap, but the mailing package?</p> <p>7 A Correct.</p> <p>8 Q And put them on a shelf in your office?</p> <p>9 A That's right.</p> <p>10 Q Did you or anyone else at your direction 11 make copies of either the disk or disks that were 12 contained therein?</p> <p>13 A No. They were never removed from the 14 shrink wrap.</p> <p>15 Q How long did they stay on the shelf in your 16 office?</p> <p>17 A Probably about fourteen months. Again, I 18 don't have a good recollection of exactly when I 19 received them or when I turned them over.</p> <p>20 Q And to whom did you turn them over 21 ultimately?</p>
<p style="text-align: right;">59</p> <p>1 A It was delivered actually to me in my 2 office. I opened the mailing box, and the software 3 manuals and disks were shrink wrapped, and I put that 4 on my shelf in my office.</p> <p>5 Q So it was initially delivered to MICROS, 6 Beltsville, correct?</p> <p>7 A That's right.</p> <p>8 Q And then there is some sort of internal 9 delivery procedure within the company whereby it made 10 its way from Beltsville to Columbia?</p> <p>11 A Correct.</p> <p>12 Q You mentioned multiple disks. How many 13 were there?</p> <p>14 A I don't recall. It may have been one 15 because I knew it's their practice to put all the 16 various software on one disk and just provide a 17 different key for what they wanted to unlock on the 18 disk. Though there may have been documentation disks 19 or tutorial discs as well, or perhaps portions of what 20 was delivered might have been on a second disk. I 21 can't remember. It might have been one. It might have</p>	<p style="text-align: right;">61</p> <p>1 A To Michael Tow.</p> <p>2 Q And that was approximately fourteen months 3 after they arrived in your office in the fall -- did 4 you say the fall of 2000? Yeah.</p> <p>5 A That would be about right.</p> <p>6 Q Did you turn all of that material over to 7 Mr. Tow at one time?</p> <p>8 A Yes. That's right.</p> <p>9 Q Did he return to you some months later and 10 retrieve from you additional materials provided by 11 Sagent?</p> <p>12 A I don't recall if he did.</p> <p>13 Q Do you have an understanding of what 14 Mr. Tow did with the materials he retrieved from you?</p> <p>15 A I believe he returned them to Sagent.</p> <p>16 Q Do you have an understanding as to why?</p> <p>17 A I believe that was to show them -- to 18 return it in the form it came. Was to show them that 19 we hadn't ever used the software.</p> <p>20 Q But I mean why was it returned at all?</p> <p>21 A At the time that it was asked from me and I</p>

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<p>66</p> <p>1 between the two companies where you say -- you talk 2 about what the products mix will be, what the delivery 3 terms will be, what the price will be? That sort of 4 back and forth?</p> <p>5 A Yes. I had experience in that regard again 6 with Sagent, but more on the lines of the consultant -- 7 the services we would agree to purchase from them on 8 various projects.</p> <p>9 Q I read some of e-mails about a gentleman 10 who worked for Sagent by the name Sanjay?</p> <p>11 A Sanjay, yes.</p> <p>12 Q He did some consulting work for MICROS with 13 regard to I think the AmeriKing project; is that right?</p> <p>14 A That's right.</p> <p>15 Q And at some point the number of days were 16 beyond budget, and MICROS asked Sagent to basically 17 make a concession on the number of days that Sanjay had 18 spent on that consulting work, right?</p> <p>19 A We did.</p> <p>20 Q And ultimately there was an agreement on 21 the number of days that would be credited back to</p>	<p>68</p> <p>1 Q At any point during this transaction, did 2 you write, in either a letter or e-mail, to 3 Mr. Comstock, Mr. VanVeelen, or anybody else at Sagent 4 expressing the idea that there was an agreement here 5 that was not expressed previously in writing, and that 6 agreement was that Sagent would accept the software 7 package and the analytical calculator in return for a 8 full refund to MICROS if MICROS couldn't relicense or 9 resell that?</p> <p>10 A I never sent any e-mails that -- to that 11 extent in that language.</p> <p>12 Q Did you send any e-mails or correspondence 13 that had similar language to it? I don't mean to box 14 you in with my specific verbiage.</p> <p>15 A No. With regard to the returning of the 16 software, I don't think that I had any correspondence 17 with Matt or with Dan.</p> <p>18 Q The software, the records will reflect, I 19 think, was returned in December of 2001, and the date 20 of Exhibit Number 1 is June 30th, 2000. So we are 21 talking about an eighteen-month gap there. I mean from</p>
<p>67</p> <p>1 MICROS, correct?</p> <p>2 A Correct.</p> <p>3 Q If MICROS was to receive a written price 4 quote from a vendor and you didn't agree with all of 5 the terms as set forth in that quote, how would you 6 convey your disagreement and request the changes back 7 to that vendor?</p> <p>8 A That would have been through direct contact 9 with either Dan VanVeelen or Matt Comstock.</p> <p>10 Q Would that have been in writing?</p> <p>11 A More often than not it was at least 12 preceded by a phone call with an agreement to -- the 13 idea that was put forth, and in probably most 14 situations but not all, follow-up with a formal e-mail.</p> <p>15 Q At any time did you write to either 16 Mr. Comstock or Mr. VanVeelen expressing the notion 17 that, "Wait a minute, guys, there is something that is 18 not reflected here, and that is your agreement to 19 accept for a full refund the software package in return 20 if we, MICROS, couldn't resell or relicense it"?</p> <p>21 A The question one more time.</p>	<p>69</p> <p>1 any time, let's say from May 2000 forward, did you 2 express in writing the sentiment that there are -- had 3 yet to be reflected in writing the agreement between 4 MICROS and Sagent that Sagent would accept the software 5 in return for a full credit back to MICROS if MICROS 6 couldn't relicense or resell its software?</p> <p>7 MR. TOW: Objection. Asked and answered. 8 Answer it again.</p> <p>9 MR. PHILLIPS: I don't think it has been 10 answered, but it has been asked.</p> <p>11 A No. I didn't send any correspondence with 12 any language to that extent.</p> <p>13 Q Are you aware of anyone within MICROS who 14 did send such a correspondence or e-mail?</p> <p>15 A I am not aware of. I don't remember seeing 16 such a correspondence or being perhaps copied on 17 correspondence with that request, but I would only 18 speculate that that was done.</p> <p>19 Q As the initial contact on the MICROS end 20 for this transaction, would you typically be copied on 21 any such correspondence if it existed?</p>

<p style="text-align: right;">70</p> <p>1 A In the earlier part of the talks about this 2 transaction, yes, but not necessarily the sixteen, 3 eighteen months later when it wrapped up.</p> <p>4 Q The earlier part would include the June 5 6th, 2000 time frame when you attended the meeting, 6 right?</p> <p>7 A Uh-huh.</p> <p>8 Q So if there was any correspondence going 9 back from anyone at MICROS to Sagent expressing the 10 notion that you and I are talking about now, in that 11 early part of the deal, you typically would have been 12 copied on that, right?</p> <p>13 A Likely.</p> <p>14 Q Are you aware of any documents either to or 15 from Sagent which reflects that it was Sagent's 16 understanding that its sale of this software package 17 and analytical calculator to MICROS was conditional 18 upon anything?</p> <p>19 A Am I aware of any correspondences to that 20 extent?</p> <p>21 Q Any document, and I mean to include</p>	<p style="text-align: right;">72</p> <p>1 Insight -- that part and parcel the Insight product was 2 the software package that is the issue of this 3 particular transaction?</p> <p>4 A Part of the original invoice in question is 5 involved with it. The data movement is absolutely 6 necessary to that product as it existed. The reporting 7 aspect of it would be an option, not necessarily 8 automatically included in it.</p> <p>9 Q Let me hand you the next exhibit, and we 10 are up to 6.</p> <p>11 (Callnin Deposition Exhibit Number 6 was 12 marked by the reporter.)</p> <p>13 MR. PHILLIPS: This bears MICROS Bates 14 numbers 161 through 163. Let's go off the record.</p> <p>15 (A recess was taken.)</p> <p>16 Q Easy question. Is it your handwriting?</p> <p>17 A No, it is not.</p> <p>18 Q On none of these three pages?</p> <p>19 A Correct.</p> <p>20 Q Do you recognize whose handwriting it is?</p> <p>21 A I do not.</p>
<p style="text-align: right;">71</p> <p>1 document, correspondence, e-mails, or handwritten notes 2 that were provided to Sagent.</p> <p>3 A I'm not aware of anything in writing to 4 that extent.</p> <p>5 Q Again, let me just ask for your sort of 6 technical expertise in this area. We talked about the 7 concept of data warehousing, and you may have answered 8 this. I may have already previously asked you. Can 9 you give me an idea of what that is, and is that what 10 you mentioned early on about collecting point of sale 11 information and analyzing or providing it in raw data?</p> <p>12 MR. TOW: Objection as to form. You can 13 answer.</p> <p>14 Q It is a poorly formed question. I'm trying 15 to learn what data warehousing is.</p> <p>16 A But I think your summary was correct.</p> <p>17 Q Do I understand that the Insight product 18 was a jointly developed product between Sagent and 19 MICROS?</p> <p>20 A That's right.</p> <p>21 Q Do I understand correctly that the</p>	<p style="text-align: right;">73</p> <p>1 Q Let me ask you a little bit more about the 2 June 6th, 2000 meeting that we talked about earlier. 3 Do you know who called that meeting?</p> <p>4 A I was the contact on putting it together 5 through Dan VanVeelen. I believe may have had Gene 6 Garrett contact Peter Rogers at that point, and that 7 was called between Gene and Peter.</p> <p>8 Q And I think earlier you testified that 9 generally the purpose of the meeting was to discuss 10 future prospect for this product, what the two 11 companies could do with it; isn't that right?</p> <p>12 A Uh-huh. That's right.</p> <p>13 Q Were there other items on the agenda, if 14 you will?</p> <p>15 A No. I think that was the sole purpose of 16 that visit. They were -- Sagent, that is, particularly 17 Gene, was very concerned with missing some numbers in 18 there at the end of the quarter, and the primary, if 19 not sole, concern of that meeting was to get some 20 prepurchased software on the records by the end of the 21 quarter.</p>